



MIKE PENCE, *Governor*  
JAMAL L. SMITH, *Executive Director*

ICRC No.EDsh11110786

██████████,  
Complainant,

v.

CREATIVE HAIRSTYLING ACADEMY,  
n/k/a TRICOCI UNIVERSITY OF BEAUTY CULTURE,  
Respondent.

### NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred. 910 IAC 1-3-2(c).

On November 22, 2011, ██████████ ("Complainant") filed a Complaint with the Commission against Creative Hairstyling Academy, n/k/a Tricoci University of Beauty Culture ("Respondent") alleging discrimination in education on the basis of sex, in violation of the Indiana Civil Rights Law (Ind. Code § 22-9, *et. seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue before the Commission is whether Complainant was denied the right to equal educational opportunities. In order to prevail, Complainant must prove that 1) she is member of a protected class; 2) she was subject to unwelcome sexual harassment; and 3) the harassment was severe and pervasive and created a hostile environment.

Complainant is a member of a protected class by virtue of her sex. Further, the record supports that the Complainant was subject to unwelcomed physical conduct of a sexual nature which created a hostile and offensive working environment. On April 16, 2011, ██████████, an instructor with Respondent, touched Complainant in an inappropriate manner. It is disputed whether ██████████ groped Complainant or tapped Complainant's buttocks with a comb; nonetheless, the evidence shows that Complainant clearly communicated to ██████████ as well as



Respondent's management that the behavior was unwelcome. On that same day, as evidenced by an April 16, 2011 email from [REDACTED], acting General Manager at the time of the incident, Respondent was aware of Complainant's sexual harassment allegation. While Respondent provided our office with a copy of the written warning directed to [REDACTED] dated April 16, 2011, it is unsigned; further, in an interview with our office, [REDACTED] denied receiving the written warning or receiving any discipline stemming from this event. Moreover, Respondent has failed to provide any evidence showing that it investigated Complainant's allegations or otherwise engaged in appropriate or correction action. While Respondent notes that Complainant acted in a belligerent manner prior to her separation from the school, it is not wholly unexpected, albeit inappropriate, in light of Respondent's lack of response to her allegations.

According to the Associate Handbook provided by Respondent, discourteous or disruptive behavior of any sort, including verbal or physical assault, is grounds for suspension and or termination. Before filing her Complaint, Complainant parked in the staff parking lot and used staff facilities; yet, after reporting [REDACTED] conduct, Complainant was prohibited from utilizing the staff parking lot and facilities and told that "she must make a decision, between being professional or she would have to consider attending another school." Based on the available evidence, it is unclear whether Respondent took any real disciplinary action against [REDACTED], the alleged harasser, or tried to remedy the situation in a reasonable or sufficient manner. Thus, based upon the above findings, probable cause exists to believe that an unlawful discriminatory practice may have occurred. A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

April 3, 2013

Date

Akia A. Haynes

Akia A. Haynes, Esq.

Deputy Director

Indiana Civil Rights Commission